



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

COURT FILE NO.: CV-24-00721560-00CL

HEARING DATE: August 7, 2024

NO. ON LIST: 4

TITLE OF PROCEEDING: Equitable Bank v. Equityline SPV Limited Partnership

BEFORE: JUSTICE KIMMEL

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party:**

Name of Person Appearing	Name of Party	Contact Info
Adrienne Ho	Equitable Bank	aho@airdberlis.com
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**For Defendant, Respondent, Responding Party:**

Name of Person Appearing	Name of Party	Contact Info
Judy Hamilton	Equityline SPV LP	jh@friedmans.ca

**For Other, Self-Represented:**

Name of Person Appearing	Name of Party	Contact Info
Rebecca Kennedy	Receiver	rkennedy@tgf.ca
David Foulds	Computershare Trust Co. of Canada	David.Foulds@ca.dlapiper.com

## **ENDORSEMENT OF JUSTICE KIMMEL:**

[1] The parties appeared today for assistance in settling the form of order for the appointment of a receiver that was ordered by the endorsement of Steele J. dated July 30, 2024. By the time of their appearance two issues remain in dispute regarding the wording of the appointment order, reflected in paragraphs 2 and 4 of the draft order:

- a. whether the property subject to receivership includes mortgages formerly held in Computershare's name (that have already been assigned or discharged, for example); and
- b. whether the release in favour of Computershare should include a release of its liability, or just its obligations, under its custodial agreements.

[2] Justice Steele is not sitting this week and the Receiver would like the appointment order signed as it is constrained in what it can do without a signed court order, despite its appointment having been approved on July 30 2024. That is understandable. While there is an interim standstill arrangement in place, it simply preserves the *status quo* the existed before the court determined that the Receiver should be appointed.

[3] The difficulty is that, while it appears that there was material in the record before Justice Steele that addresses the specific points of dispute in the form of order, the precise language that the Applicant/Receiver/Computershare are asking be included in the current proposed wording of paragraphs 2 and 4 of the Order was not directly considered by Justice Steele and is not addressed in her endorsement. The Respondent is objecting to the inclusion of this language.

[4] I can hypothesize about the justifications for and against the proposed language and, with more time, might have been able to look deeper into the record and consider the parties' submissions on these points of dispute, but there was not sufficient time booked today and there is no time available this week. In any event, ideally, these points of disagreement over the wording of the appointment order should be considered by Justice Steele, if possible.

[5] As a temporary measure, to address the Receiver's immediate concern that its appointment be formalized, it was decided that I would sign a form of order that does not include the disputed language and can thus be approved as to form and content by all. This is under a reservation of the rights of the Applicant and Computershare to re-attend on a further case conference before Justice Steele for her to consider and provide such directions as she considers appropriate regarding the additional proposed language, likely to be addressed through an amended or restated receivership order if changes are to be made.

[6] To be clear, there has been no ruling on the disputed language. The adjudication of those issues has been adjourned to be argued before Justice Steele at a later date to be scheduled.

[7] Order to go in the revised form provided by counsel and signed by me today, dated and effective July 30, 2024 without the necessity of formal issuance and entry.

A handwritten signature in cursive script, appearing to read "Kimmel J.", written in dark ink.

KIMMEL J.  
August 8, 2024